

THE ALL ENGLAND LAW REPORTS

Tables and Index 1992

Index Editor
CHRISTINE IVAMY
of Gray's Inn, Barrister

London
BUTTERWORTHS

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Cases reported and considered
Practice directions and notes
Statutes considered
Words and phrases considered
Subject index

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CHRISTINE IVAMY MA
of Gray's Inn, Barrister

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Introduction

The Tables and Index 1992 covers all the cases reported in the four volumes of the All England Law Reports for 1992. It is a continuation of the Consolidated Tables and Index 1936–1989 and the Cumulative Tables and Index 1990–1991. For information concerning the use of this index readers should refer to the introductions to volumes 1 and 2 of the 1936–1989 index.

The tables and index consists of five sections:

- a table of cases reported and judicially considered; this table lists alphabetically all cases reported in the All England Law Reports in 1992, and in addition it lists all cases of any date which have been reported in the All England Law Reports and the All England Law Reports Reprint and which were judicially considered, ie applied, distinguished, overruled and so on, in cases reported during 1992
- a table of practice directions and notes issued in 1992
- a table of statutes etc judicially considered in 1992
- a table of words and phrases judicially considered in 1992
- a subject index, including a full system of cross-references, of all cases reported in 1992

The Tables and Index 1992, when used in conjunction with the three volumes of the Consolidated Tables and Index 1936–1989 and the Cumulative Tables and Index 1990–1991, provides a complete index of cases reported in the All England Law Reports from 1936 to the end of 1992, and is issued pending publication early in 1993 of a new Consolidated Tables and Index 1936–1992 which will incorporate in three volumes a complete index to the All England Law Reports from 1936 to 1992.

The index is separate from the 1992 volumes of the All England Law Reports and should therefore *not* be sent in for binding with the loose parts of the reports.

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 Dictum applied, Barlow Clowes International Ltd (in liq) v Vaughan [1992] 4 22
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J

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K

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L

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M

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 Marcal v Comr of Police of the Metropolis [1991] 1 845, Ch D
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 Applied, R v Clowes [1992] 3 440
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 Dictum applied, Crockfords Club Ltd v Mehta [1992] 2 748
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 Applied, R v Clowes [1992] 3 440
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 Applied, Thomas v University of Bradford (No 2) [1992] 1 964
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 Considered, R v Maguire [1992] 2 433
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 Distinguished, R v Gough [1992] 4 481
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 Applied, R v Life Assurance and Unit Trust Regulatory Organisation Ltd, ex p Ross [1992] 1 422
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 Distinguished, R v Christou [1992] 4 559
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 Applied, R v Governor of Pentonville Prison, ex p Chinoy [1992] 1 317
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 R v Secretary of State for the Environment, ex p Ostler [1976] 3 90, CA
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 Applied, R v Gough [1992] 4 481
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 Applied, **Ensign Tankers (Leasing) Ltd v Stokes (Inspector of Taxes)** [1992] 2 275
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 Applied, **AT & T Istel Ltd v Tully** [1992] 2 28
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 Dicta applied, **Bhimji v Chatwani (No 3)** [1992] 4 912, Ch D
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 Applied, **Hager v Osborne** [1992] 2 494
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 Distinguished, **Billson v Residential Apartments Ltd** [1992] 1 141
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 Applied, **Re British and Commonwealth Holdings plc (Nos 1 and 2)** [1992] 2 801
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 Applied, **AB v South West Water Services Ltd** [1992] 4 574
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Execution of customer's orders—Drawing and payment of customer's cheques—Bank's duty to exercise reasonable skill and care—Order for transfer of misappropriated funds—Customer arranging bank loan to company controlled by him—Customer requesting bank to transfer funds to unknowing firm of solicitors—Customer instructing solicitors to transfer money to United States—Customer absconding to United States and misappropriating money—Bank suing company and guarantor for return of money—Whether bank under duty to make inquiries before transferring money to solicitors—Whether bank having reasonable grounds for believing that customer's order was attempt to misappropriate funds. **Barclays Bank plc v Quincecare Ltd** [1992] 4 363, QBD.

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Bank's supervisory role over commercial banks in United Kingdom—Notice issued by Bank of England requiring bank to produce documents relating to customer's account—Customer obtaining injunction restraining bank from disclosing information relating to account—Whether notice issued by Bank of England overriding injunction—Whether injunction providing bank with 'reasonable excuse' to refuse to comply with Bank of England notice—Banking Act 1987, s 39(3)(a)(11). **A v B Bank (Bank of England intervening)** [1992] 1 778, QBD.

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Gaming club—Club accepting banker's draft drawn in favour of firm of solicitors—Whether solicitors having immediate right to possession of draft—Whether club liable for conversion of draft—Bills of Exchange Act 1882, ss 29(1)(b), 38(2). **Lipkin Gorman (a firm) v Karpnale Ltd** [1992] 4 512, HL.

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Wardship proceedings—

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Production of documents—Office-holders of company in administration applying for production of documents held by auditors of recently-acquired subsidiary—Auditors applying for liberty to inspect confidential statement filed by office-holders in support of application for production—Whether auditors entitled to inspect statement filed by office-holders—Factors to be considered—Insolvency Act 1986, s 236—Insolvency Rules 1986, r 9.5. **Re British and Commonwealth Holdings plc (Nos 1 and 2)** [1992] 2 801, CA.

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Examination of officers of company etc—Privilege against self-incrimination—Administrative receivers appointed to conduct inquiry into company's affairs—Evidence of serious misconduct by director of company—Receivers obtaining order summoning director to submit to questioning—Director claiming privilege against self-incrimination—Whether director entitled to rely on privilege—Whether insolvency legislation abrogating privilege—Insolvency Act 1986, ss 235, 236. **Re Jeffrey S Levitt Ltd** [1992] 2 509, Ch D.

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Duty of officers and agents of company to give information—Privilege against self-incrimination—Whether common law privilege against self-incrimination available to person questioned by inspectors—Companies Act 1985, ss 432, 434, 436. **Re London United Investments plc** [1992] 2 842, CA.

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Power of court to fix remuneration on application of liquidator—Receiver's right to remuneration—Assets over which receiver entitled to lien—Whether receiver entitled to lien over all assets subject to receivership—Whether receiver's lien restricted to assets which he has taken into his possession. **Mellor v Mellor** [1992] 4 10, Ch D.

Power of court to fix remuneration on application of liquidator—Receiver's right to remuneration—Receiver appointed by court as result of non-disclosure or impropriety by party applying for receivership—Receiver unlikely to have been appointed if court had been apprised of full facts—Whether receiver's right to remuneration affected by non-disclosure or impropriety—RSC Ord 30, r 3. **Mellor v Mellor** [1992] 4 10, Ch D.

Power of court to fix remuneration on application of liquidator—Receiver's right to remuneration—Receiver discharged by court—Whether receiver's right to remuneration affected by discharge. **Mellor v Mellor** [1992] 4 10, Ch D.

Power of court to fix remuneration on application of liquidator—Receiver's right to remuneration—Receivership not beneficial to company—Whether receiver's right to remuneration affected by effect of receivership on company. **Mellor v Mellor** [1992] 4 10, Ch D.

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Restoration to register—

Applicant a plaintiff in an action for damages against company—

Application to restore company to register four years after dissolution—Action brought within primary limitation period but after dissolution of company—Plaintiff's solicitors unaware of dissolution of company until expiration of primary limitation period—Whether company should be restored to register—Whether court should direct that period between date of dissolution and date of restoration be disregarded for purposes of limitation period—Limitation Act 1980, ss 11, 33(1)—Companies Act 1985, s 651(5)(6). **Re Workvale Ltd** [1992] 2 627, CA.

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Creditors' voluntary winding up—

Costs of litigation—Legal proceedings initiated by company—Company going into voluntary liquidation—Liquidators continuing action despite settlement offer—Action unsuccessful—Costs of action awarded against company—Insufficient assets in liquidation to discharge litigation costs—Costs creditors also pre-liquidation creditors—Costs creditors wishing to consider whether company should bring misfeasance action against liquidators—Whether costs creditors entitled to require liquidators to summon meetings of creditors and of company to explain their conduct of the winding up—Whether costs creditors entitled to inspect documents relevant to action—Companies Act 1985, s 602. **Re Movitex Ltd** [1992] 2 264, CA.

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Enforcement—

Registration in England—Ex parte order—Court within European Community making ex parte order without prior notice or service of documents on defendant—Defendant given no opportunity to be heard—Whether foreign order capable of registration in England—Whether foreign order registrable ex post facto—Civil Jurisdiction and Judgments Act 1982, s 4, Sch 1, arts 27(2), 46(2). **EMI Records Ltd v Modern Music Karl-Ulrich Walterbach GmbH** [1992] 1 616, QBD.

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Defamatory publication in France—Plaintiff domiciled in England—Small circulation of publication in England—Defendant domiciled in France—Right of defendant to be sued in courts of his domicile—Right to sue person domiciled in contracting state in tort in courts where harmful event occurred—Damage assumed under English law of libel once publication established—Whether harmful event occurring in England—Whether English court having jurisdiction to try action—Civil Jurisdiction and Judgments Act 1982, s 2, Sch 1, art 5(3). **Shevill v Presse Alliance SA** [1992] 1 409, CA.

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Agreement between parties domiciled in convention countries—Agreement providing for non-exclusive submission to jurisdiction of English courts—Claim arising under agreement—Plaintiff domiciled in England serving writ out of jurisdiction on defendant domiciled in Germany—Whether English courts having jurisdiction over claim—Whether non-exclusive choice of jurisdiction clause valid—Whether writ should be set aside—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 17. **Kurz v Stella Musical Veranstaltungen GmbH** [1992] 1 630, Ch D.

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Lis pendens—

Proceedings involving same cause of action and between same parties—Proceedings brought in courts of different convention countries—Defendant bringing action in French court claiming moneys due under reinsurance policies—Plaintiffs contesting jurisdiction of French court and bringing proceedings in English court seeking to avoid liability under policies—Defendant applying for stay of English proceedings—Whether fact that defendant domiciled in non-convention country precluding application of lis pendens provisions of European convention on jurisdiction to both sets of proceedings—Whether English court as court second seised bound to decline jurisdiction or stay proceedings—Whether English court having jurisdiction to examine jurisdiction of French court when deciding whether to grant stay—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 21. **Overseas Union Insurance Ltd v New Hampshire Insurance Co** [1992] 2 138, C.JEC.

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Arrest of bailed defendant for absconding or breaking bail conditions—Power to vary bail conditions or remand bailed defendant in custody—Jurisdiction of single justice—Whether single justice having jurisdiction to determine whether bailed defendant should be remanded in custody or granted further bail—Whether matter required to be determined by two justices—Whether formal hearing required before court consisting of more than one justice—Whether statutory procedure precluding power to adjourn proceedings—Bail Act 1976, s 7(5)—Magistrates' Courts Act 1980, s 121 (1). **R v Liverpool City Magistrates' Court, ex p DPP** [1992] 3 249, QBD.

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Attempted murder—

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Acts constituting provocation—Domestic violence—Wife killing husband following history of domestic violence and assaults—No sudden and temporary loss of self-control—Whether history of domestic violence amounting to provocation. **R v Thornton** [1992] 1 306, CA, **R v Ahluwalia** [1992] 4 889, CA.

Self-control of reasonable man—Characteristics of accused—Whether characteristics relating to mental state or personality of accused can be taken into account in determining whether reasonable person having characteristics of accused would have lost self-control. **R v Ahluwalia** [1992] 4 889, CA.

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Employment—Self-employed accountant obtaining engagement by falsely representing qualifications—Whether accountant 'employed' by clients—Whether 'office or employment' extending to engagement of independent contractor pursuant to contract for services—Theft Act 1968, s 16(1)(2)(c). **R v Callender** [1992] 3 51, CA.

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CRIMINAL LAW (cont)

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Withdrawal—Completion of Crown's case—Whether prosecution having right to discontinue after Crown's case completed—Whether prosecution counsel under duty to cross-examine defence witnesses or address jury if he thought it would not be proper to convict. **R v Grafton** [1992] 4 609, CA.

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Abuse of process—Delay—Delay in bringing proceedings—When proceedings may be stayed because of delay—Principles to be applied. **A-G's Reference (No 1 of 1990)** [1992] 3 169, CA.

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Unlawful wounding—

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Summary offence—Committal of summary offence with offence triable only on indictment—Justices' decision to commit not appealable or liable to be questioned in any court—Whether justices having jurisdiction to commit summary offence with offence triable only on indictment—Whether Crown Court having supervisory function over justices' exercise of committal jurisdiction—Whether proceedings in Crown Court null and void because justices' decision to commit ultra vires—Whether Divisional Court having jurisdiction to quash justices' decision to commit—Whether question of jurisdiction or merits—Criminal Justice Act 1988, s 41(1)(3)(5). **R v Miall** [1992] 3 153, CA.

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Transfer of cases involving children—

Transfer to Crown Court centre equipped with live television link facilities—Supreme Court Act 1981, s 75(1)—Criminal Justice Act 1991, s 53, Sch 6, para 1(1). **Practice Note** [1992] 3 922, CA.

Supervisory jurisdiction of High Court—

Trial on indictment—

High Court having no supervisory jurisdiction in matters relating to trial on indictment—Application to Crown Court judge to stay proceedings on grounds of abuse of process—Judge refusing application—Whether decision of Crown Court judge made 'in matters relating to trial on indictment'—Whether High Court having jurisdiction to hear application for judicial review of Crown Court judge's decision—Whether judge's decision should be quashed if High Court having jurisdiction—Supreme Court Act 1981, s 29(3). **R v Central Criminal Court, ex p Randle** [1992] 1 370, QBD.

CROWN COURT (cont)

Supervisory jurisdiction of High Court (cont)—

Trial on indictment (cont)—

High Court having no supervisory jurisdiction in matters relating to trial on indictment—Application to Crown Court judge to stay proceedings on ground of abuse of process—Judge refusing application—Whether decision of Crown Court judge made 'in matters relating to trial on indictment'—Whether High Court having jurisdiction to hear application for judicial review of Crown Court judge's decision—Whether judge's decision should be quashed if High Court having jurisdiction—Supreme Court Act 1981, s 29(3). **R v Crown Court at Norwich, ex p Belsham** [1992] 1 394, QBD.

High Court having no supervisory jurisdiction in matters relating to trial on indictment—Order preventing publication of details calculated to lead to identification of child or young person—Whether order prohibiting publication of report of proceedings identifying child or young person 'a matter relating to trial on indictment'—Whether order subject to judicial review—Children and Young Persons Act 1933, s 39—Supreme Court Act 1981, s 29(3). **R v Crown Court at Leicester, ex p S (a minor) R v** [1992] 2 659, QBD.

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Misrepresentation. *See* **Misrepresentation** (Negligent misrepresentation—Damages for breach of duty of care).

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Exemplary damages. *See* **Exemplary damages—Nuisance, ante**.

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Structured settlement—

Approval of court—Procedure—Listing of applications—Documents to be lodged—Transfer of Admiralty and Commercial Registry matters to Central Office—Plaintiff under mental disability. **Practice Direction** [1992] 1 862, QBD.

Undertaking as to damages—

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Company documents—

Inquiry into company's dealings—

Production of documents. *See* **Company** (Administration—Inquiry into company's dealings—Production of documents).

Discovery against persons not parties to proceedings—

Former legal adviser to defendant—

American attorneys practising in London who had acted for defendant—Right to obtain information from persons against whom there is no cause of action and who are not parties to action—Whether plaintiff must demonstrate real prospect that information sought might lead to location or preservation of assets claimed by plaintiff—Whether court will refuse discovery if detriment to person against whom discovery sought in terms of cost and invasion of privacy and breach of obligations of confidence outweighing advantage to plaintiff. **Arab Monetary Fund v Hashim (No 5)** [1992] 2 911, Ch D.

Nominal plaintiff—

Charterers claiming damages from owners of vessel for repudiation of time charterparty—Owners applying for discovery of specific documents in possession of company affiliated to charterers—Company refusing to disclose documents—Whether proceedings should be stayed if documents not disclosed—Whether charterers real or nominal plaintiffs—Whether charterers acting as agents of affiliated company in chartering vessels. **Abu Dhabi National Tanker Co v Product Star Shipping Ltd, The Product Star** [1992] 2 20, QBD.

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Extent of privilege—

Selection by solicitor of client's documents—Originals or copies of documents—Whether solicitor's selection of own client documents likely to betray trend of advice given to client—Whether legal professional privilege extending to such documents. **Dubai Bank Ltd v Galadari (No 7)** [1992] 1 658, Ch D.

Privilege—

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Class of documents—Police complaints and disciplinary files—Woman police officer in charge of complaints and disciplinary files making complaint of sex discrimination—Applicant seeking discovery of complaints and disciplinary files—Whether police complaints and disciplinary files protected from production or disclosure in civil proceedings by public interest immunity. **Halford v Sharples** [1992] 3 624, CA.

Class of documents—Statements taken by police in statutory investigation into complaints by member of public—Makers of statements consenting to disclosure—Statements taken from complainant—Whether statements taken by police in investigation of complaint, including complainant's own statement, protected from production or disclosure in civil proceedings—Police Act 1964, s 49. **Makanjuola v Comr of Police of the Metropolis** [1992] 3 617, CA.

Class of documents—Transcript of police disciplinary proceedings—Whether transcript of police disciplinary proceedings protected from production or disclosure in civil proceedings—Police Act 1964, s 49. **Makanjuola v Comr of Police of the Metropolis** [1992] 3 617, CA.

Confidential documents—Official correspondence relating to extradition disclosed to parties in earlier proceedings—Fugitive offender seeking writ of habeas corpus and relying on official correspondence as evidence of improper motives of authority requesting extradition—Whether fugitive entitled to rely on official correspondence—Whether official correspondence subject to public interest immunity—Whether public interest immunity doctrine applicable to criminal proceedings—Factors to be taken into account. **R v Governor of Brixton Prison, ex p Osman (No 1)** [1992] 1 108, QBD.

Self-incrimination—

Discovery in aid of injunction—Generally. *See* **Practice** (Pre-trial or post-judgment relief—Discovery in aid of injunction).

Exception to privilege—Company bringing action for account against former director—Company seeking information about unauthorised transfer of funds from bank accounts—Former director claiming privilege against self-incrimination—Whether director entitled to rely on privilege—Whether privilege available to a fiduciary, servant or agent in action brought against him for breach of duty. **Bishopsgate Investment Management Ltd (in prov liq) v Maxwell, Cooper v Maxwell, Mirror Group Newspapers plc v Maxwell** [1992] 2 856, CA.

DISCOVERY (cont)

Production of documents—

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Generally. *See* Privilege, *ante*.

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Discrimination against a woman. *See* **Employment** (Discrimination against a woman).

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Summary dismissal—

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Impounding goods—

Entry onto premises to impound goods—Bailliff unable to effect entry onto premises to impound goods—Bailliff putting notice of distress in sealed envelope through door of premises—Whether posting notice of distress in sealed envelope through letter box of house effecting lawful distress—Community Charge (Administration and Enforcement) Regulations 1989, regs 39, 40. **Evans v South Ribble BC** [1992] 2 695, QBD.

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Appeal from county court to High Court—Appeal from district judge to judge in chambers—Fresh evidence—Appeal from ancillary relief order made by district judge—Whether appeal by way of rehearing—Whether party appealing must show that district judge's decision was plainly wrong—Whether High Court judge having unfettered discretion to admit further evidence on appeal—RSC Ord 59, r 10(2)—CCR Ord 37, r 6(1)—Family Proceedings Rules 1991, r 8.1. **Merritt v Merritt** [1992] 2 504, Fam D.

Costs—

Ancillary proceedings—

Financial provision—Compromise offer—Offer falling short of amount awarded—Whether successful spouse entitled to costs—Whether award of no costs to either side appropriate if both parties acted reasonably in negotiations. **Gojkovic v Gojkovic (No 2)** [1992] 1 267, CA.

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Validity of decree—

Decree pronounced by court of competent jurisdiction—No procedural irregularity—Whether party can subsequently challenge validity of decree—Whether decree unimpeachable. **Callaghan v Andrew-Hanson** [1992] 1 56, Fam D.

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Appeal. *See* Appeal—Financial provision, *ante*.

Costs. *See* Costs—Ancillary proceedings, *ante*.

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Interim capital payment—Allocation of particular asset to satisfy contingent claim—Proceeds of former matrimonial home held in joint fund—Wife wishing to purchase new home—Whether court having jurisdiction to make interim capital payment pending final determination of ancillary relief proceedings—Whether court having jurisdiction to allocate particular asset to satisfy contingent claim—Whether assets available for distribution between parties can be transferred from cash to real property—Whether funds ought to be released to wife for purchase of new home. **Barry v Barry** [1992] 3 405, Fam D.

Matters to be considered by court when making order—

Family assets—Damages for personal injuries—Husband injured in road accident which rendered him paraplegic—Husband receiving substantial award of damages for loss of amenity and pain and suffering—Whether capital sum awarded to husband by way of compensation for loss of amenity and pain and suffering required to be brought into account in determining ancillary relief—Whether wife entitled to lump sum payment out of damages awarded to husband—Matrimonial Causes Act 1973, s 25(2)(a). **Wagstaff v Wagstaff** [1992] 1 275, CA.

DIVORCE (cont)

Practice—

Children—

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General medical services. *See* **National health service** (General medical services).

DOCUMENT

Admissibility in evidence—

Out-of-court statement—

Out-of-court statement made 'orally' admissible only if proved by direct oral evidence by speaker—Statements recorded on tape recordings—Speaker recording conversations with other interlocutors without their knowledge or intention—Whether tapes admissible as evidence of facts stated therein—Whether recorded statements made 'orally' and/or 'in a document'—Whether recorded statements made 'in a document' subject to direct oral evidence requirement—Civil Evidence Act 1968, s 2(1)(3). **Ventouris v Mountain (No 2), The Italia Express** [1992] 3 414, CA.

Proof—Secondhand hearsay evidence—Out-of-court statement contained in a document—Second out-of-court statement concerning making of first statement—Whether permissible to use second statement to prove first out-of-court statement—Whether out-of-court statement contained in document capable of being proved by admissible secondhand hearsay evidence made admissible under statute—Civil Evidence Act 1968, s 2. **Ventouris v Mountain (No 2), The Italia Express** [1992] 3 414, CA.

Record as evidence of facts stated therein—

Record of criminal inquiry—Tape recordings deposited with investigating judge—Whether tapes forming part of judge's record—Whether tapes admissible in civil proceedings as evidence of facts stated therein—Civil Evidence Act 1968, s 4(1). **Ventouris v Mountain (No 2), The Italia Express** [1992] 3 414, CA.

Company documents—

Inquiry into company's dealings—

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Seizure of documents—

Powers. *See* **Police** (Powers—Seizure of documents).

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Witness summons. *See* **Criminal evidence** (Witness—Witness summons—Production of documents).

DOMESTIC VIOLENCE

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Provocation. *See* **Criminal law** (Murder—Provocation—Acts constituting provocation—Domestic violence).

DRINK

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DRIVER

Driving while unfit through drink or drugs. *See* **Road traffic** (Driving while unfit through drink or drugs).

Reckless driving. *See* **Road traffic** (Reckless driving).

DRUGS

Driving while unfit through drugs. *See* **Road traffic** (Driving while unfit to drive through drink or drugs).

Drug trafficking—

Confiscation order—

Evidence—Admissible evidence—Whether evidence only admissible in prosecution for conspiracy also admissible in proceedings for confiscation order. **R v Chrastny (No 2)** [1992] 1 193, CA.

Joint property—Property held jointly by persons engaged in drug trafficking—Property jointly held found to be proceeds of drug trafficking—Only one joint owner convicted of drug trafficking offences—Whether confiscation order may be made against convicted joint owner in respect of whole of property—Drug Trafficking Offences Act 1986, s 2(3). **R v Chrastny (No 2)** [1992] 1 193, CA.

Proceeds of drug trafficking—Payment or other reward received 'in connection with drug trafficking'—Knowledge that payment made in connection with drug trafficking—Whether necessary that recipient of payment or reward knew it was made 'in connection with drug trafficking'—Drug Trafficking Offences Act 1986, s 1(3). **R v Richards** [1992] 2 572, CA.

Satisfaction of order—Realisable property—Legitimately acquired property—Whether confiscation order may be made if amount realisable from proceeds of drug trafficking are less than total proceeds attributable to defendant—Whether confiscation order may be made for amount which requires defendant to use legitimately acquired property to satisfy order—Drug Trafficking Offences Act 1986, s 5(1). **R v Chrastny (No 2)** [1992] 1 193, CA.

Laundering of proceeds—

Whether an extraditable offence. *See* **Extradition** (Committal—Extradition crime—Drug trafficking offence—Laundering of proceeds of drug trafficking).

Mauritius. *See* **Mauritius** (Drug trafficking).

DRUGS (cont)

Drug trafficking (cont)—

Restraint order—

Insolvency of defendant—Interim order—Effect of interim order on restraint order—Interim order made by county court on application by defendant after restraint order already made—Interim order precluding institution of bankruptcy or other proceedings against defendant without leave—Prosecution and defendant applying for appointment of receiver in respect of defendant's realisable property—Whether interim order affecting prosecution's right to apply for appointment of receiver—Whether prosecution requiring leave of county court to make application—Whether defendant having locus standi to seek appointment of receiver—Drug Trafficking Offences Act 1986, ss 8(1)(6), 15(2)(3)—Insolvency Act 1986, s 252. **Re M (restraint order)** [1992] 1 537, QBD.

Order for disclosure of assets—Order made subject to condition that disclosure not be used as evidence in prosecution of person required to make disclosure—Whether court having power to order disclosure in aid of restraint order—Whether condition effective to preserve common law rule against self-incrimination—Drug Trafficking Offences Act 1986, s 8. **Re Thomas (disclosure order)** [1992] 4 814, CA.

DURESS

Defence to criminal charge—

Attempted murder. *See* **Criminal law** (Murder—Attempted murder—Defence—Duress).

DUTY OF CARE

Negligence—

Generally. *See* **Negligence** (Duty to take care).

EASEMENT

Right of way—

Reservation in conveyance—

Construction of reservation—Ecclesiastical property—Grant of right of way over strip of land in favour of vicar and his successors, owners or occupiers for time being of land situated between strip of land and churchyard—Right of way leading to burial ground—Diocese vesting burial ground in parish council for use as public burial ground—Owners of servient tenement objecting to parish council's use of right of way for access to public burial ground—Whether parish council entitled to use right of way for access to public burial ground—Church Property (Miscellaneous Provisions) Measure 1960, s 9(1). **Hamble Parish Council v Haggard** [1992] 4 147, Ch D.

ECCLESIASTICAL LAW

Church—

Secular use—

Faculty for use of church for secular purposes—Aerials etc for personal communications network—Jurisdiction to grant faculty—Circumstances in which faculty will be granted—Matters to be considered—Siting of installation—Lightning risks—Electrical system—Control of use of installation—Licence sanctioning installation—Terms of licence. **Re All Saints, Harborough Magna** [1992] 4 948, Con Ct.

Clergyman—

Offence—

Trial—Conduct of trial—Assessors—Fellow priest discussing accused's defence with him and forming uncommunicated view adverse to accused—Fellow priest subsequently chosen as one of four assessors for accused's trial—Accused found guilty by unanimous verdict—Whether assessor should have withdrawn—Whether assessor should have informed registrar of discussions with accused and of preliminary adverse opinion—Whether trial fair—Whether presence of assessor likely to have caused prejudice. **Burridge v Tyler** [1992] 1 437, Arches Ct.

Trial—Conduct of trial—Assessors—Selection of assessors—Disclosure to potential assessors of identities of accused and witnesses—Ecclesiastical Jurisdiction Measure 1963, Pt IV. **Burridge v Tyler** [1992] 1 437, Arches Ct.

Faculty—

Alterations to church—

Church listed as being of special architectural or historic interest—Restrictions on alterations to listed buildings not applying to ecclesiastical buildings—Presumption against any change adversely affecting character of church as listed building—Evidence—Report from Council for the Care of Churches—Production of report to court. **Re All Saints, Melbourn** [1992] 2 786, Arches Ct.

Matters to be taken into account—Views of parishioners—Views of parishioners on alterations not conclusive. **Re All Saints, Melbourn** [1992] 2 786, Arches Ct.

Costs—

Allocation of costs between petitioners and objector—Restoration of church organ—Diocesan advisory committee not supporting petition and remaining neutral—Archdeacon opposing petition at request of court—Court allowing petition but ordering petitioners to pay one-third of court costs—Whether court right to require petitioners to pay one-third of costs. **Re St Catherine's, Leconfield** [1992] 3 545, Con Ct.

Extension to church—

Extension into churchyard—Whether any custom to grant or refuse petition for extensions into churchyards. **Re All Saints, Melbourn** [1992] 2 786, Arches Ct.

Secular use of church. *See* **Church**—Secular use—Faculty for use of church for secular purposes, *ante*.

EDUCATION

School—

Admission to school—

Parental preference—Regard to wishes of parents—School having more applicants for admission than it could accommodate—Church voluntary aided school—School adopting admissions policy giving priority to Roman Catholics so as to preserve character of school—Whether oversubscribed school entitled to adopt religious criteria in selecting applicants for admission—Education Act 1980, s 6(2)(3)(6). **Choudhury v Governors of Bishop Challoner Roman Catholic Comprehensive School** [1992] 3 277, HL.

EDUCATION (cont)

School (cont)—

Voluntary aided school—

Selection for admission—School having more applicants for admission than it could accommodate—Church voluntary aided school—School adopting policy of giving priority to Roman Catholics so as to preserve character of school—Parents of Hindu and Muslim girls expressing preference for school—School governors refusing to admit girls because they did not meet admission criteria—No arrangements made between governors and local education authority to preserve character of school—Whether oversubscribed school entitled to adopt religious criteria for admissions—Education Act 1980, s 6(2)(3)(6). **Choudhury v Governors of Bishop Challoner Roman Catholic Comprehensive School** [1992] 3 277, HL.

ELECTIONS

Corrupt practice—

Undue influence—

Fraudulent device—Impeding or preventing free exercise of franchise—Political party distributing mock leaflet of opposing party—Leaflet containing accurate but tendentious statements unacceptable to opposing party's likely voters—Leaflet intended to deceive those to whom it was directed—Whether respondents guilty of undue influence—Whether leaflet a fraudulent device—Whether leaflet impeding or preventing free exercise of franchise by an elector—Representation of the People Act 1983, s 115(2)(b). **R v Rowe, ex p Mainwaring** [1992] 4 821, CA.

EMPLOYMENT

Academic staff—

University. *See* **University** (Academic staff).

Confidential information—

Duty of employee. *See* Duty of servant—Confidential information, *post*.

Discrimination against a woman—

Dismissal because of pregnancy—

Appropriate comparison—Woman dismissed because she was pregnant—Whether dismissal amounting to discrimination—Whether appropriate comparison between pregnant woman and man or between pregnant woman and man who would be absent for same length of time for medical reasons—Whether discriminatory effect of condition to be balanced against reasonable needs of party applying condition—Whether contrary to European Community law to dismiss woman because of pregnancy—Sex Discrimination Act 1975, ss 1(1), 5(3). **Webb v EMO Air Cargo (UK) Ltd** [1992] 4 929, HL.

Unfair dismissal and redundancy payments—

Part-time workers—Qualifying thresholds for unfair dismissal and redundancy payments different for part-time and full-time workers—Part-time workers required to be in continuous employment for five years to qualify for unfair dismissal and redundancy payments—Full-time workers required to be in continuous employment for two years to qualify—90% of part-time workers women—Whether qualifying thresholds for unfair dismissal and redundancy payments discriminatory against women—EEC Treaty, art 119. **R v Secretary of State for Employment, ex p Equal Opportunities Commission** [1992] 1 545, QBD.

Dismissal—

Academic staff—

Discrimination against a woman. *See* Discrimination against a woman, *ante*.

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Consent order—Local authority applying for consent order—Justices holding protracted hearing and then making order on terms different from those proposed—Whether protracted hearing appropriate for consent order—Whether justices ought to invite representations before making order on different terms—Whether draft order ought to be put before justices. **Devon CC v S** [1992] 3 793, Fam D.

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Purchase of gaming chips with stolen money—Whether owner of stolen money lost by thief in gambling having right to recover from gaming club where money lost by thief—Gaming Act 1845, s 18. **Lipkin Gorman (a firm) v Karpnale Ltd** (1986) [1992] 4 331, QBD.

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Father and son—

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HOUSING

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Referral of application to another housing authority—Applicant arriving from Bangladesh to settle in England and applying for accommodation on grounds of homelessness—Local authority determining that applicant was intentionally homeless—Applicant making second application for accommodation to another local authority—Second local authority determining that applicant was not homeless intentionally and referring application to first local authority—First local authority required to house applicant—Whether second local authority required to take into account first local authority's reasons for reaching opposite conclusion—Whether second local authority required to have regard to general housing circumstances prevailing in first local authority before referring application to first local authority for accommodation—Housing Act 1985, ss 60, 67. **R v Newham London BC, ex p Tower Hamlets London BC** [1992] 2 767, CA.

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Local authority houses—

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Succession on death of tenant—Person qualified to succeed tenant—Secure tenancy held by joint tenants—One joint tenant giving notice terminating his part of tenancy—Remaining tenant entering into tenancy agreement as sole tenant—Remaining tenant dying—Whether tenancy of which remaining tenant was sole tenant same tenancy as tenancy held by joint tenants—Whether remaining tenant the 'successor' to tenancy—Whether remaining tenant's son entitled to succeed to tenancy—Housing Act 1985, ss 87(b), 88(1)(b). **Bassetlaw DC v Renshaw** [1992] 1 925, CA.

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Deduction in computing profits—

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Relief against forfeiture—Whether relief against forfeiture available to tenant where forfeiture arises out of disclaimer of landlord's title—Law of Property Act 1925, s 146. **W G Clark (Properties) Ltd v Dupre Properties Ltd** [1992] 1 596, Ch D.

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LANDLORD AND TENANT (cont)

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Occupation of residential accommodation where public or local authority is landlord—Secure tenancy—Agreement granting occupation of room in hostel for single homeless men having priority need—Whether agreement creating tenancy or licence—Whether agreement giving security of tenure against possession order sought by authority—Housing Act 1985, ss 59(1), 65(2). **Westminster City Council v Clarke** [1992] 1 695, HL.

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LEGAL AID (cont)

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Local authority—Whether local authority would suffer severe financial hardship if its costs of between £70,000 and £80,000 in successfully defending judicial review proceedings not paid out of legal aid fund—Legal Aid Act 1988, s 18(4)(b). **R v Greenwich London BC, ex p Lovelace (No 2), R v Greenwich London BC, ex p Fay** [1992] 1 679, CA.

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Person who is unassisted for only part of proceedings—Costs incurred while unassisted—Proceedings finally decided in favour of that person—Whether court having jurisdiction to order payment by Legal Aid Board of that person's costs incurred before issue of legal aid certificate—Legal Aid Act 1988, s 18. **Re H (minors) (abduction: custody rights) (No 2)** [1992] 3 380, HL.

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LIMITATION OF ACTION (cont)

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Matters to which court may have regard—

Length of delay—Delay of one day in issuing writ—Plaintiff personally not at fault—Defendant's ability to defend action on merits not affected—Defendant presented with windfall of cast-iron defence—Plaintiff having cast-iron case against own solicitor for negligence—Whether defendant's loss of unexpected windfall limitation defence constituting prejudice—Whether action should not be allowed to proceed because plaintiff having cast-iron case against solicitor—Whether discretion should be exercised where very short period of delay in commencing action not affecting defendant's ability to defend on merits—General guidelines on exercise of discretion—Limitation Act 1980, ss 11, 33(1)(3). **Hartley v Birmingham City DC** [1992] 2 213, CA.

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Three-year limitation period—

Three-year limitation period for negligence actions where facts relevant to cause of action not known at date of accrual—Time limit applying to 'any action for damages for negligence'—Whether 'any action for damages for negligence' including action for damages for breach of contractual duty founded on allegation of negligent conduct—Limitation Act 1980, s 14A. **Société Commerciale de Réassurance v ERAS (International) Ltd, Re ERAS EIL appeals (note)** [1992] 2 82, CA.

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Actions in tort—

Accrual of cause of action—Negligence—Damage—Lapse of time between discovery of defect and damage to other property—Time when cause of action arises—Economic loss—Defendants supplying alloy tubing for use in plaintiffs' chemical production plant—Plaintiffs discovering cracks in pipe—Plaintiffs unable to discover cause of cracking despite reasonable investigation—Plaintiffs repairing and continuing to use pipe—Pipe exploding a year later causing physical damage to other property and economic loss to plaintiffs—Writ issued within six years of explosion but more than six years after discovery of cracks—Whether limitation period running from discovery of cracks or date of explosion—Whether damage caused by explosion irrecoverable economic loss. **Nitrigin Eireann Teoranta v Inco Alloys Ltd** [1992] 1 854, QBD.

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Duty to adjourn case to bench of three justices—Magistrates' Courts Act 1980, s 9(2). **R v Redbridge Justices, ex p Ram** [1992] 1 652, QBD.

Late arrival of prosecuting counsel—

Court informed that counsel would arrive late—Justices refusing to prolong adjournment to await arrival of counsel—Justices dismissing charges before arrival of prosecuting counsel—Whether justices exercising discretion wrongly. **R v Sutton Justices, ex p DPP** [1992] 2 129, QBD.

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Implementation of European Community obligations—

Equal treatment of men and women in employment field—Equal Opportunities Commission alleging that United Kingdom legislation in breach of Community obligations—Whether court having jurisdiction to grant mandamus to compel Secretary of State to introduce legislation—European Communities Act 1972, s 2(2). **R v Secretary of State for Employment, ex p Equal Opportunities Commission** [1992] 1 545, QBD.

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Drug trafficking—

Offences—

Penalties—Drug offences carrying heavier sentences if amounting to drug trafficking—Mandatory death penalty for conviction in Supreme Court of importation and trafficking—Whether separate offence of 'importing-cum-drug trafficking'—Whether drug trafficking merely aggravating circumstance going to penalty—Whether separate offence of 'importing-cum-drug trafficking' must be charged in Supreme Court—Dangerous Drugs Act 1986 (Mauritius), ss 28(1)(c), 38. **Ali v R, Rassool v R** [1992] 2 1, PC.

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Right to refuse consent—Refusal on religious grounds—Discretion of court to authorise emergency operation—Health authority seeking authority to carry out emergency Caesarian section operation on pregnant woman—Operation in vital interests of patient and unborn child—Patient objecting to operation on religious grounds—Whether court should exercise inherent jurisdiction to authorise operation. **Re S (adult: refusal of medical treatment)** [1992] 4 671, Fam D.

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Right to refuse treatment—

Minor suffering from anorexia nervosa refusing medical treatment—Medical condition of minor such that she would suffer permanent physical damage without treatment—Whether court exercising inherent jurisdiction can order medical treatment against minor's wishes—Whether minor's wishes can be disregarded by court—Whether minor having exclusive right to consent and absolute right to refuse medical treatment—Family Law Reform Act 1969, s 8—Children Act 1989, s 100. **Re W (a minor) (medical treatment)** [1992] 4 627, CA.

Ward of court—

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MEN AND WOMEN

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Employment. *See* **Employment** (Discrimination against a woman).

Equality of treatment—

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MENTAL HEALTH

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MINOR

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Financial relief—

Application for order—Second application—Res judicata—First application dismissed on ground of want of corroboration—Mother making fresh application for financial relief for child—Mother intending to adduce further evidence to establish paternity—Whether mother estopped from making second application—Whether paternity issue res judicata—Whether doctrine of res judicata applicable in proceedings for financial relief—Whether mother precluded from making fresh application. **Hager v Osborne** [1992] 2 494, Fam D.

Child born before statutory provisions providing for financial relief for children coming into effect—Whether statutory provisions having retrospective effect—Guardianship of Minors Act 1971, s 11B. **Hager v Osborne** [1992] 2 494, Fam D.

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Foreign custody rights—Wrongful removal or retention—Acquiescence—Mother secretly removing children from Australia to England and then notifying father—Father writing letter to mother stating that he knew mother's action was illegal but that he was not going to fight it—Father subsequently seeking return of children to Australia alleging unlawful abduction—Whether father acquiescing in removal of children from Australia—What amounts to acquiescence—Child Abduction and Custody Act 1985, s 2(2), Sch 1, art 13(a). **Re A and anor (minors) (abduction: acquiescence)** [1992] 1 929, CA.

Evidence—

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Medical treatment—

Right to refuse treatment—

Minor aged 16 years. *See* **Medical treatment** (Minor aged 16 years—Right to refuse treatment).

Ward of court—

Jurisdiction of court. *See* **Ward of court** (Jurisdiction—Medical treatment).

MINOR (cont)

Practice—

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Custody and access—Care and control and access—Residence, contact and other orders—Contested applications—Conciliation—Conciliation before district judge and court welfare officer—Attendance of parties—Applications for adjournment—Directions where conciliation unsuccessful—Urgent applications—Children Act 1989, s 8. **Practice Direction** [1992] 1 421, Fam D.

Removal outside jurisdiction—

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Specific issue and prohibited steps orders—Parent who removed child not within jurisdiction and having no assets within jurisdiction—Whether court could issue specific issue and prohibited steps orders to assist return of child—Whether orders could be made *ex parte*—Children Act 1989, s 8(1). **Re D (a minor)** [1992] 1 892, CA.

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Misrepresentation by spouse exercising influence—Effect. *See* **Equity** (Undue influence—Misrepresentation by person exercising influence—Effect of misrepresentation—Husband and wife).

Negligent misrepresentation—

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Contributory negligence—Plaintiff claiming damages for negligence at common law and under statute—Whether defence of contributory negligence available to claim under statute—Law Reform (Contributory Negligence) Act 1945, s 1—Misrepresentation Act 1967, s 2(1). **Gran Gelato Ltd v Richcliff (Group) Ltd** [1992] 1 865, Ch D.

MISUSE OF COMPUTER

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MONEY

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Right to trace funds at common law—

Funds transmitted to bank by telegraphic transfer—Plaintiff's employee forging payment order in favour of nominee company set up and controlled by defendant accountants—Plaintiff's bank transmitting funds by telegraphic transfer to nominee company's London bank account—London bank reimbursed by correspondent bank in New York via New York clearing system—Whether plaintiff having title to bring action—Whether funds recoverable as money had and received—Whether origin of funds identifiable. **Agip (Africa) Ltd v Jackson** [1992] 4 451, CA.

MONOPOLIES AND MERGERS

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Merger affecting substantial part of United Kingdom—

Substantial part of United Kingdom—Merger of local bus undertakings—Reference area being 1.65% of United Kingdom and containing 3.2% of population—Whether reference area 'a substantial part of the United Kingdom'—Whether commission having jurisdiction to hear reference—Fair Trading Act 1973, s 64(1)(a)(3). **R v Monopolies and Mergers Commission, ex p South Yorkshire Transport Ltd** [1992] 1 257, CA.

MORTGAGE

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Challenge—

Mortgagee having contractual right to recover or retain costs out of mortgaged property—Mortgagor challenging items included in mortgagee's account of costs as being of unreasonable amount—Whether mortgagor entitled to object to items in account. **Gomba Holdings UK Ltd v Minorities Finance Ltd** (No 2) [1992] 4 588, CA.

Contractual entitlement to costs—

Statutory discretion to order payment of costs—Mortgagee having contractual right to recover or retain costs out of mortgaged property on full indemnity basis—Whether statutory discretion to be exercised in accordance with mortgagee's contractual entitlement to costs—Whether court having power to curtail mortgagee's contractual entitlement to costs—Supreme Court Act 1981, s 51(1). **Gomba Holdings UK Ltd v Minorities Finance Ltd** (No 2) [1992] 4 588, CA.

Litigation costs and non-litigation costs—

Quantification—Taxation—Mortgagee having contractual right to recover or retain costs from mortgaged property—Whether mortgagee's entitlement to litigation costs and non-litigation costs to be quantified by means of taxation—Whether non-litigation costs amenable to taxation—RSC Ord 62, rr 19, 24. **Gomba Holdings UK Ltd v Minorities Finance Ltd** (No 2) [1992] 4 588, CA.

Possession of mortgaged property—

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Equitable interest—Priority between mortgagee's interest and equitable interest—Remortgage of property—Matrimonial home—Man sole owner at law—Home purchased with cash contributed by woman and mortgaged in sole name of man—Woman aware that mortgage and conveyance in man's sole name—Man remortgaging home for greater amount without woman's knowledge—Man redeeming original mortgage and keeping balance—New mortgagee seeking possession for non-payment of mortgage instalments—Whether consent of woman to remortgage to be imputed—Whether woman's beneficial interest having priority over new mortgagee's interest—Whether substituted incumbrance ranking ahead of woman's beneficial interest to extent of her imputed consent. **Equity and Law Home Loans Ltd v Prestidge** [1992] 1 909, CA.

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NATIONAL HEALTH SERVICE

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NATURAL JUSTICE

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Damages—

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Defective premises—

Landlord's duty of care by virtue of right to repair—

Implied right to repair—Local authority landlord—Tenancy requiring tenant to give council access to premises 'for any purpose which might from time to time be required by council'—Tenant sustaining personal injuries due to defective garden step—Whether tenancy expressly or impliedly giving council right to carry out repairs to garden step—Whether council owing duty of care to tenant by virtue of right to carry out repairs to garden step—Defective Premises Act 1972, s 4(1)(4). **McAuley v Bristol City Council** [1992] 1 749, CA.

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Nervous shock—

Foreseeability of harm—Duty to take care to avoid injury to persons who might foreseeably suffer nervous shock from want of care—Plaintiff's son killed in accident at work—Accident caused by defendants' negligence—Plaintiff informed of son's death at hospital—Plaintiff suffering emotional trauma and consequently developing reactive depression—Whether consequential illness suffered by plaintiff foreseeable—Whether defendants liable for consequential illness following mental shock suffered when receiving news of son's death—Whether proximity of time and place of learning of accident relevant factors for liability of defendants. **Ravenscroft v Rederiaktiebolaget Transatlantic** [1992] 2 470 (note), CA.

Person to whom duty owed—

Foetus—Child injured in utero—Hospital negligent in carrying out gynaecological operation on plaintiffs' mothers while they were pregnant—Hospital negligent in carrying out medical care of plaintiffs' mothers while they were pregnant and during plaintiffs' birth—Plaintiffs born with physical deformities—Whether plaintiffs having cause of action against hospital even though plaintiffs having no legal status at time of wrongful act. **Burton v Islington Health Authority, de Martell v Merton and Sutton Health Authority** [1992] 3 833, CA.

Foetus—Child injured in utero—Hospital negligent in carrying out medical care of plaintiff's mother while she was pregnant and during plaintiff's birth—Plaintiff born with physical deformities—Whether plaintiff having cause of action against hospital even though having no legal status at time of wrongful act. **de Martell v Merton and Sutton Health Authority** [1992] 3 820, QBD.

Statutory powers—

Exercise of statutory power conferred by statute—Secretary of State obtaining undertaking from plaintiff not to acquire more than 30% of company's share capital—Monopolies and Mergers Commission subsequently reporting that plaintiff's take-over of company not against public interest—Rival making take-over bid for company—Secretary of State releasing plaintiff from undertaking after rival had acquired control of company—Whether Secretary of State and Department of Trade and Industry negligent in failing to release undertaking in due time—Whether Secretary of State and department in breach of duty of care owed to plaintiff—Whether public law nature of claim requiring plaintiff to seek judicial review rather than proceed by action. **Lonrho plc v Tebbit** [1992] 4 280, CA.

Landlord's liability—

Landlord also designer and builder of premises—

Liability of defendant as landlord and/or designer and builder of premises—Access to council house down two flights of steps—Steps not provided with handrail—No lighting in immediate vicinity of steps—Tenant falling down steps and injuring leg—Whether council owing duty of care to tenant as landlord and/or as builder and designer of premises. **Targett v Torfaen BC** [1992] 3 27, CA.

Limitation of action—

Accrual of cause of action. *See Limitation of action* (When time begins to run—Actions in tort—Accrual of cause of action—Negligence).

NEGLIGENCE (cont)

Misrepresentation—

Negligent misrepresentation—

Generally. *See* **Misrepresentation** (Negligent misrepresentation).

Personal injury—

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NET BOOK AGREEMENTS

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NORTHERN CIRCUIT

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NORTHERN IRELAND

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NUISANCE

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Nuisance caused by passage of heavy goods vehicles to and from defendants' port—Port operated 24 hours a day in accordance with planning permission granted by plaintiff council—Whether claim in nuisance to be judged by reference to character of neighbourhood as affected by planning permission—Whether use in accordance with planning permission can amount to actionable nuisance. **Gillingham BC v Medway (Chatham) Dock Co Ltd** [1992] 3 923, QBD.

Noise—

Highway. *See* Highway—Noise, *ante*.

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Public nuisance—

Highway. *See* **Highway** (Public nuisance).

OBTAINING PECUNIARY ADVANTAGE BY DECEPTION

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ORAL SNUFF

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PARDON

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PARENT

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PARTIES

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PARTNERSHIP

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PERSONAL INJURIES

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Court's power to override time limit. *See* **Limitation of action** (Court's power to override time limit in personal injury or fatal accident claim).
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PLEADING

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New cause of action—Prejudice—Proposed amendments raising new causes of action—Factors to be considered—Whether prejudice to defendants outweighing plaintiff's need to make amendments—
Whether prejudice limited to matters relating to delay after expiry of time limit—Whether leave should be granted—RSC Ord 20, r 5(2). **Hancock Shipping Co Ltd v Kawasaki Heavy Industries Ltd, The Casper Trader** [1992] 3 132, CA.
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Admissibility in criminal proceedings. *See* **Criminal evidence** (Admissions and confessions—Answers and statements to police).
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Appointment of custody officer—
Appointment of custody officers for each designated police station—Chief constable required to appoint one or more custody officers . . . for each designated police station—Whether chief constable only required to appoint one custody officer at each designated station—Whether chief constable required to appoint sufficient custody officers to ensure that at least one custody officer normally available at each designated station—Police and Criminal Evidence Act 1984, s 36(1). **Vince v Chief Constable of the Dorset Police** [1992] 3 98, QBD.
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POLICE (cont)

Entry and search of premises—

Powers—

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Evidence by police—

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Entry and search of premises by force without warrant—Right of constable to enter private premises by force without warrant to recapture person 'unlawfully at large and whom he is pursuing'—Pursuing—Constables resorting to premises and entering by force to recapture absconding mental patient whom they reasonably believed to be within premises—Other occupants of house assaulting police and charged with assaulting police in execution of their duty—Whether police 'pursuing' patient—Whether police acting in execution of duty—Police and Criminal Evidence Act 1984, s 17(1)(d). **D'Souza v DPP** [1992] 4 545, HL.

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Retention—Disclosure to third party—Whether police entitled to disclose seized documents to third party for use in civil litigation—Whether police liable to produce to court on subpoena duces tecum documents which true owner would be so liable to produce if documents still in his possession—Police and Criminal Evidence Act 1984, s 22. **Marcel v Comr of Police of the Metropolis** [1992] 1 72, CA.

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Consolidation of actions—

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Limitation period prolonged to advantage of plaintiff—Whether discretion to consolidate should be exercised if plaintiff gains limitation advantage. **Arab Monetary Fund v Hashim (No 4)** [1992] 4 860, CA.

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Pending—Whether cause pending when writ issued—Whether cause pending only when writ served—RSC Ord 4, r 9(1). **Arab Monetary Fund v Hashim (No 4)** [1992] 4 860, CA.

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Generally. *See* **Damages**.

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Divorce—

Decree absolute. *See* **Divorce** (Decree absolute).

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Family proceedings—

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Appeals from magistrates' courts—Documents to be filed in care centre registry—Appeal to be heard by Family Division judge—Place of hearing—Domestic Proceedings and Magistrates' Courts Act 1978—Children Act 1989, s 94—Family Proceedings Rules 1991, rr 4.22, 8.2—Children (Allocation of Proceedings) Order 1991, Sch 2. **Practice Direction** [1992] 1 864, Fam D.

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Promotion or protection of interests of inhabitants of their area—

Expedient that authority institute proceedings—Whether question whether proceedings expedient for promotion or protection of interests of inhabitants a matter for authority to consider—Whether question whether proceedings expedient for promotion or protection of interests of inhabitants may be determined on striking-out application—Local Government Act 1972, s 222(1). **Derbyshire CC v Times Newspapers Ltd** [1992] 3 65, CA.

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Foreign defendant—Action in tort—Plaintiffs applying to join foreign defendant for purpose of obtaining discovery—Prospective defendant alleged to be joint tortfeasor—Test to be applied in permitting joinder of defendant in cases within scope of European jurisdiction convention—Whether plaintiffs required to show good arguable case or merely that claim would not be struck out—Whether joinder to obtain discovery an abuse of process—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 5(3)—RSC Ord 11, r 1, Ord 18, r 19. **Molnlycke AB v Procter & Gamble Ltd** [1992] 4 47, CA.

Adding persons as parties—

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Parties (cont)—

Adding persons as parties (cont)—

Jurisdiction—Addition of company—Defendant holding majority of shares in company—Plaintiff having no cause of action against company—Whether company proper party to proceedings—Whether company could be joined as party to proceedings even though plaintiff having no cause against it—RSC Ord 15, r 6(2)(b)(ii). **TSB Private Bank International SA v Chabra** [1992] 2 245, Ch D.

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Date from when substituted party becomes party to proceedings—Action on bill of lading—Bill of lading subject to Hague Visby Rules for claims in respect of carriage of goods—Writ amended and re-served on substituted defendant outside one-year limitation period prescribed by Hague Visby Rules—Whether defendant joined as party from date when amended writ served on him—Whether joinder relating back to date when writ first issued—Whether Hague Visby Rules time limit substantive or procedural—Carriage of Goods by Sea Act 1971, Sch, art III, para 6—Limitation Act 1980, s 35—RSC Ord 20, r 5. **Payabi v Armistead Shipping Corp, The Jay Bola** [1992] 3 329, QBD.

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Anton Pillar order—

Execution of order—Safeguards relating to execution of orders. **Universal Thermosensors Ltd v Hibben** [1992] 3 257, Ch D.

Discovery in aid of injunction—

Privilege against self-incrimination—Condition attached to disclosure order in civil proceedings prohibiting material disclosed under order from being used in criminal proceedings—Crown Prosecution Service agreeing not to use material disclosed under order in criminal prosecution against defendant—Whether condition effective to protect defendant—Whether defendant in civil action for fraud entitled to rely on privilege against self-incrimination in refusing to comply with Mareva order or order for discovery in aid of injunction. **A T & T Istel Ltd v Tully** [1992] 3 523, HL.

Privilege against self-incrimination—Proceedings for infringement of rights pertaining to intellectual property—Rights pertaining to commercial information—Action for damages for fraud or breach of trust—Whether plaintiffs seeking disclosure of information relating to infringement of rights pertaining to commercial information—Whether order for discovery in aid of Mareva injunction seeking disclosure of information overriding privilege against self-incrimination—Supreme Court Act 1981, s 72. **A T & T Istel Ltd v Tully** [1992] 3 523, HL.

Privilege against self-incrimination—Proprietary claims—Whether order for discovery in aid of Mareva injunction raising proprietary claims which override privilege against self-incrimination. **A T & T Istel Ltd v Tully** [1992] 3 523, HL.

Interim payment—

Repayment of interim payment—Interest—Jurisdiction to award interest—Whether court having power to order payment of interest when ordering repayment of interim payment—Supreme Court Act 1981, s 32—RSC Ord 29, r 17. **Mercers Co v New Hampshire Insurance Co** [1992] 3 57 (note), CA.

Mareva injunction—

Injunction in support of order for costs—Application for injunction made before taxation of costs—Whether court having jurisdiction to grant injunction in respect of untaxed costs. **Jet West Ltd v Haddican** [1992] 2 545, CA.

Jurisdiction—Mareva injunction granted by Court of Appeal on appeal—Injunction giving parties 'liberty to apply' to discharge or vary order—Defendant applying to Court of Appeal to discharge order—Whether Court of Appeal having jurisdiction to entertain application—Whether application ancillary to exercise by Court of Appeal of its appellate jurisdiction—Supreme Court Act 1981, s 15(3), 16. **Ocean Software Ltd v Kay** [1992] 2 673, CA.

Third party interests—Injunction granted against bank—Effect of injunction on normal course of banking business—Whether bank should be subject of Mareva injunction—Whether other interlocutory relief should be granted with respect to funds claimed. **Polly Peck International plc v Nadir** [1992] 4 769, CA.

Third party interests—Injunction granted against guarantor—Guarantor holding majority of shares in company—Plaintiff having no cause of action against company—Whether company proper party to proceedings—Whether court having jurisdiction to grant injunction against company. **TSB Private Bank International SA v Chabra** [1992] 2 245, Ch D.

Worldwide injunction—Matrimonial proceedings—Mareva injunction pending appeal—Husband and wife living abroad and husband claiming domicile abroad—Wife petitioning for divorce on basis of domicile in England—Husband challenging jurisdiction of court—Court granting interim maintenance pending determination and worldwide injunction over all husband's assets—Wife's petition dismissed for want of jurisdiction—Wife appealing and seeking continuation of worldwide Mareva injunction pending determination of appeal—Whether grant of worldwide Mareva injunction appropriate. **Ghosh v Ghosh** [1992] 2 920, CA.

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Judge's control of proceedings—Trial judge ordering preliminary determination of certain issues—Whether parties entitled as of right to have case tried to conclusion after all evidence adduced—Whether appellate court should uphold judge's decision to order trial of preliminary issue unless decision plainly wrong. **Ashmore v Corp of Lloyd's** [1992] 2 486, HL.

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Legal professional privilege—

Discovery of documents. *See Discovery* (Legal professional privilege).

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Production of documents—

Company documents—

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Generally. *See* **Discovery** (Privilege).

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Counsel's fees—

Interlocutory fees—Accident cases—Scale of fees to be allowed on taxation. **Practice Direction** [1992] 3 944, SC Taxing Office.

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Masters' lists—Senior Master's list—Floating list—Cases which may be placed in lists—Other urgent applications. **Practice Direction** [1992] 1 345, QBD.

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Deemed service—

Writ—Acknowledgment of service—Acknowledgment of service filed in order to make payment into court—Writ not served—Whether right to make payment in 'at any time' restricted to any time after service of writ—Whether defendant estopped by acknowledgment of service from asserting that writ had not been duly served—RSC Ord 10, r 1(5), Ord 22, r 1(1). **Towers v Morley** [1992] 2 762, CA.

Insolvency proceedings. *See* **Insolvency** (Service).

Service of writ on partnership. *See* **Writ** (Service on partnership).

Service through letter box—

Time of service—Writ served through letter box deemed to be served on seventh day after date on which writ inserted through letter box 'unless the contrary is shown'—Whether proof of date on which a copy writ inserted through letter box effecting good service on that date—Whether proof of earlier service can only be shown by proof that copy writ came to notice of partner before expiry of seven-day period—RSC Ord 10, r 1(3)(a). **Marsden v Kingswell Watts (a firm)** [1992] 2 239, CA.

Service out of the jurisdiction—

Insolvency proceedings. *See* **Insolvency** (Service—Service out of jurisdiction).

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Generally. *See* **Set-off**.

Statement of claim. *See* **Statement of claim**.

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Queen's Bench Division—Time summonses—Arrangement for issue. **Practice Direction** [1992] 1 64, QBD.

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Tomlin order. *See* **Compromise of action**—Consent order—Order in Tomlin form, *ante*.

Transfer of proceedings between High Court and county courts—

Family business and family proceedings—

Proceedings which may and may not be transferred—Matrimonial Causes Act 1973, ss 1(2)(e), 5, 19—Domicile and Matrimonial Proceedings Act 1973, s 5(6)—Adoption Act 1976—Matrimonial and Family Proceedings Act 1984, Pt III (ss 12–27), ss 37, 38, 39—Family Law Act 1986, Pt I (ss 1–43), Pt III (ss 55–63)—Children Act 1989—Children (Allocation of Proceedings) Order 1991. **Practice Direction** [1992] 3 151, Fam D.

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Postponing date for trial—Unavoidable delay caused by case being only partially prepared—Plaintiffs and defendants agreeing to postpone hearing—Test to be applied in determining whether trial should be postponed—Orders for costs where delay due to failure of parties or their legal advisers. **Boyle v Ford Motor Co Ltd** [1992] 2 228, CA.

Writ—

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Discrimination against a woman. *See* **Employment** (Discrimination against a woman—Dismissal because of pregnancy).

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Release on licence—

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Review by Parole Board—Reports for presentation to Parole Board—Prisoner serving discretionary life sentence—Whether natural justice requiring disclosure to prisoner of reports to be presented to Parole Board on review of case. **R v Parole Board, ex p Wilson** [1992] 2 576, CA.

PRISONER

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PRIVATE INTERNATIONAL LAW

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PRIVILEGE

Crown servant—

Evidence—

Foreign tribunal—Privilege of Crown servant from giving evidence before foreign tribunal. *See* **Evidence** (Foreign tribunal—Examination of witness in relation to matters pending before foreign tribunal—Privilege of witness from giving evidence before foreign tribunal—Privilege of Crown servant).

Discovery of documents. *See* **Discovery** (Privilege).

Legal professional privilege—

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Self-incrimination, against—

Defence in proceedings for contempt of court. *See* **Contempt of court** (Defence—Self-incrimination).

Department of Trade and Industry investigation of company's affairs—

Whether common law privilege against self-incrimination available to persons questioned by inspectors. *See* **Company** (Investigation by Department of Trade and Industry—Affairs of company—Duty of officers and agents of company to give information—Privilege against self-incrimination).

Injunction—

Discovery in aid of injunction—Generally. *See* **Practice** (Pre-trial or post-judgment relief—Discovery in aid of injunction—Privilege against self-incrimination).

Insolvency of company—

Inquiry into company's affairs. *See* **Company** (Insolvency—Inquiry into company affairs—Examination of officers of company etc—Privilege against self-incrimination).

Provisional liquidator's inquiry into company's affairs. *See* **Company** (Provisional liquidation—Inquiry into company affairs—Examination of officers of company etc—Privilege against self-incrimination).

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PRODUCTION

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Company documents—

Inquiry into company's dealings. *See* **Company** (Administration—Inquiry into company's dealings—Production of documents).

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PUBLIC RIGHT OF WAY

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Queen's Counsel instructed without authority in certificate to do so—

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QUIET ENJOYMENT

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Buildings occupied together with agricultural land and used solely in connection with agricultural operations thereon—

Occupied together with agricultural land—Buildings occupied together with buildings used for keeping and breeding of livestock—Provender mill and poultry processing factory—Mill and factory providing feed and processing plant for broiler houses on 67 farms situated up to 120 miles away—Whether mill and factory 'occupied together with' broiler houses on farms—Whether distance relevant factor—General Rate Act 1967, s 26(1)—Rating Act 1971, ss 1(1), 2(1)(b). **Hambleton DC v Buxted Poultry Ltd** [1992] 2 70, CA.

Used solely in connection with agricultural operations thereon—Provender mill—Mill owned by company providing feed for broiler houses on company's farms—6% to 8% of mill's production delivered to other turkey farmers—Whether mill 'used solely in connection with' operations carried on in broiler houses on company's farms—General Rate Act 1967, s 26(1)—Rating Act 1971, ss 1(1)(2), 2(3)(a). **Hambleton DC v Buxted Poultry Ltd** [1992] 2 70, CA.

RECEIVER

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RECKLESS DRIVING

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RECOGNISANCE

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Recovery of money paid and interest—Building society paying tax in response to demand made under ultra vires regulations—Whether society immediately acquiring prima facie right to be repaid the amount paid—Whether interest payable from date of payment—Whether general restitutionary principle that if subject pays in response to unlawful demand for tax he immediately acquires right to be repaid. **Woolwich Building Society v IRC (No 2)** [1992] 3 737, HL.

Unjust enrichment—

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Jurisdiction to make forfeiture order. *See Sentence* (Forfeiture order—Forfeiture of property—Property—Property used for committing any offence—Car used for driving while disqualified).

Driving while unfit to drive through drink or drugs—

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Procedure to be followed in requiring driver to provide specimen of blood or urine—Road Traffic Act 1988, ss 7(3)(4), 8(2). **DPP v Warren** [1992] 4 865, HL.

Reckless driving—

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Regulations—

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SALE OF LAND

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Unreasonable delay—Rescission—Whether unreasonable delay by purchaser entitling vendor to rescind contract without serving notice to complete. **Graham v Pitkin** [1992] 2 235, PC.

Misrepresentation—

Negligent misrepresentation—

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SCHOOL

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SECURE ACCOMMODATION ORDER

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SECURITY OF TENURE

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Generally. See **Housing** (Local authority houses—Security of tenure).

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SELF-INCRIMINATION

Privilege against self-incrimination—

Bank requiring person suspected of contravening banking legislation to disclose information required for purpose of investigation—

Suspect claiming privilege against self-incrimination—Whether entitled to rely on privilege. See **Bank** (Deposit-taking business—Control by Bank of England—Bank's power to require person suspected of contravening banking legislation to disclose information required for purpose of investigation—Privilege against self-incrimination).

Defence in proceedings for contempt of court. See **Contempt of court** (Defence—Self-incrimination).

Department of Trade and Industry investigation of company's affairs—

Whether common law privilege against self-incrimination available to persons questioned by inspectors. See **Company** (Investigation by Department of Trade and Industry—Affairs of company—Duty of officers and agents of company to give information—Privilege against self-incrimination).

Discovery of documents. See **Discovery** (Privilege—Self-incrimination).

Injunction—

Discovery in aid of injunction—Generally. See **Practice** (Pre-trial or post-judgment relief—Discovery in aid of injunction—Privilege against self-incrimination).

Insolvency of company—

Inquiry into company's affairs. See **Company** (Insolvency—Inquiry into company affairs—Examination of officers of company etc—Privilege against self-incrimination).

Provisional liquidator's inquiry into company's affairs. See **Company** (Provisional liquidation—Inquiry into company affairs—Examination of officers of company etc—Privilege against self-incrimination).

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Appeal from magistrates' court—

Practice. See **Magistrates** (Appeal—Sentence).

Contempt of court—

Criminal contempt. See **Contempt of court** (Criminal contempt—Sentence).

Disqualification—

Criminal contempt. See **Contempt of court** (Criminal contempt—Sentence).

Forfeiture order—

Forfeiture of property—

Property—Property used for committing any offence—Car used for driving while disqualified—Whether forfeiture order may be made in respect of car used for driving while disqualified—Powers of Criminal Courts Act 1973, s 43(1). **R v Highbury Corner Magistrates' Court, ex p Di Matteo** [1992] 1 102, QBD.

Magistrates' court—

Appeal—

Practice. See **Magistrates** (Appeal—Sentence).

Matters to be taken into account—

Early release of prisoners—

Abolition of remission—Necessity to have regard to actual period likely to be served—Individual judgment to be exercised as to appropriate sentence—Criminal Justice Act 1991, ss 32–40. **Practice Note** [1992] 4 307, CA.

Remission—

Abolition of remission—

Matters to be taken into account when imposing sentence of less than four years. See **Matters to be taken into account—Early release of prisoners—Abolition of remission, ante**.

Young offender—

Offender attaining age of 21 between conviction and sentence—

Whether accused should be sentenced as juvenile or adult—Criminal Justice Act 1982, s 1 (3A). **R v Danga** [1992] 1 624, CA.

SEQUESTRATION

Contempt of court. See **Contempt of court** (Sequestration).

SERVICE

Insolvency proceedings. See **Insolvency** (Service).

Writ—

Generally. See **Practice** (Service).

Partnership. See **Writ** (Service on partnership).

SET-OFF

Costs—

Legal aid—

Generally. *See* **Legal aid** (Costs—Set-off).

Right of set-off—

Exclusion—

Unfair contract term. *See* **Contract** (Unfair terms—Term excluding right of set-off).

Summary judgment—

Counterclaim—Set-off at law—Plaintiffs claiming demurrage in respect of contract of sale under joint venture arrangement—Claim for liquidated amount—Defendants counterclaiming for short payment under earlier contract—Payment fixed by reference to contract price paid by defendants to suppliers—Whether counterclaim for liquidated sum—Whether defendants entitled to set off counterclaim—Whether defendants' right to recover on counterclaim a triable issue—Whether defendants entitled to unconditional leave to defend. *Axel Johnson Petroleum AB v MG Mineral Group AG, The Jo Lind* [1992] 2 163, CA.

SEVERE DISABLEMENT ALLOWANCE

Equality of treatment of men and women—

European Economic Community. *See* **European Economic Community** (Equality of treatment of men and women—Social security—Severe disablement allowance).

SEX ABUSE

Child—

Ward of court—

Protection. *See* **Ward of court** (Care and control—Protection of ward—Child sex abuse).

SEX DISCRIMINATION

Employment—

Discrimination against a woman. *See* **Employment** (Discrimination against a woman).

European Economic Community—

Equality of treatment. *See* **European Economic Community** (Equality of treatment of men and women).

SHIPPING

Bill of lading—

Action on bill of lading subject to Hague Visby Rules—

Substitution of parties—Date from when substituted party becomes party to proceedings. *See* **Practice** (Parties—Substitution—Date from when substituted party becomes party to proceedings—Action on bill of lading).

Navigation—

Public right of navigation—

Land covered by water. *See* **Water and watercourses** (Navigation—Public right of navigation—Land covered by water).

Time charterparty—

Hire—

Lien for non-payment of hire—Sub-freights—Charterparty giving shipowners lien on 'all sub-freights' for non-payment of amounts due under its terms—Whether owners having lien over hire payable by sub-sub-charterers under time charter—Whether owners' lien limited to sub-freight payable under voyage charter—New York Produce Exchange form of charterparty, cl 18. *Care Shipping Corp v Itex Itagrani Export SA, The Cebu (No 2)* [1992] 1 91, QBD.

SITE OF SPECIAL SCIENTIFIC INTEREST

Protection of. *See* **Environment** (Protection—Site of special scientific interest).

SLANDER

Generally. *See* **Libel and slander**.

SNUFF

Oral snuff—

Ban on supply of—

Safety regulations—Duty to consult affected parties before making regulations. *See* **Consumer protection** (Safety regulations—Duty to consult affected parties before making regulations—Prohibition on supply of product—Oral snuff).

SOCIAL SECURITY

Contributions—

Contribution conditions—

Determination of claims and questions—Whether Secretary of State having exclusive jurisdiction to decide what constitutes contribution conditions for particular claimant—Whether social security commissioner having jurisdiction to determine claimant's contribution conditions for entitlement to benefit—Social Security Administration Act 1992, s 17(1)(b)—Social Security Contributions and Benefits Act 1992, Sch 3, para 2(6)(b). *Secretary of State for Social Security v Scully* [1992] 4 1, CA.

European Economic Community—

Equality of treatment of men and women. *See* **European Economic Community** (Equality of treatment of men and women—Social security).

Severe disablement allowance—

Equality of treatment of men and women—European Economic Community. *See* **European Economic Community** (Equality of treatment of men and women—Social security—Severe disablement allowance).

SOLICITOR

Access to—

Right of person in custody—

Right to be informed of right to communicate with legal adviser—Mode of communicating right to arrested person. *A-G of Trinidad and Tobago v Whiteman* [1992] 2 924, PC.

Advice—

Legal aid. *See* **Legal aid** (Advice and assistance).

SOLICITOR (cont)

Compensation fund—

Grant from fund to relieve loss or hardship suffered in consequence of solicitor's dishonesty—

Law Society's policy in regard to grants from fund—Exclusion of grants in respect of damages or consequential loss—Claim for consequential loss on property deal caused by dishonesty of client's solicitor—Claim rejected in accordance with Law Society's policy not to authorise grants in respect of damages or consequential losses—Whether Law Society entitled to adopt policy not to authorise grants in respect of damages or consequential losses—Solicitors Act 1974, s 36. **R v Law Society, ex p Reigate Projects Ltd** [1992] 3 232, QBD.

Conflict of interest. *See* Duty—Conflict of interest, *post*.

Contentious business—

Taxation of bill of costs. *See* Costs (Taxation—Solicitor—Bill of costs for contentious business).

Costs—

Payment by solicitor personally. *See* Payment of costs by solicitor personally, *post*.

Recovery—

Charging order over client's property—Litigation culminating in order for costs in favour of solicitors' client—Order for costs making no provision for taxation—Subsequent proceedings on same dispute compromised by agreement—Compromise agreement extinguishing parties' rights and liabilities under contracts giving rise to dispute—Dormant client company failing to pay solicitors' fees—Client's only remaining asset being order for costs—Solicitors applying for charging order over order for costs—Whether order for untaxed costs constituting 'property' over which charging order could be made—Whether court having jurisdiction to make charging order to secure solicitors' untaxed costs—Whether compromise agreement extinguishing client's right to enforce order for costs—Solicitors Act 1974, s 73(1)(a)(b). **Fairfold Properties Ltd v Exmouth Docks Co Ltd (No 2)** [1992] 4 289, Ch D.

Service of statutory demand—Setting aside statutory demand—Action to recover solicitors' costs—Solicitors serving statutory demand within one month of delivering bill of costs—Whether service of statutory demand constituting bringing of action—Whether solicitors barred from serving statutory demand within one month of delivering bill of costs—Solicitors Act 1974, s 69(1). **Re a debtor (No 88 of 1991)** [1992] 4 301, Ch D.

Taxation—

Generally. *See* Costs (Taxation—Solicitor).

Disciplinary proceedings—

Disciplinary tribunal—

Admissible evidence—Standard of proof—English solicitor struck off roll of practitioners in Western Australia for unprofessional conduct—Complaint to Solicitors Disciplinary Tribunal that same conduct unbefitting a solicitor—Tribunal upholding complaint after considering decision of Western Australian disciplinary board—Whether decision of Western Australian board admissible—Whether tribunal required to adopt criminal standard of proof—Civil Evidence Act 1968, s 1(1)—Solicitors (Disciplinary Proceedings) Rules 1985, rr 39(a), 41. **Re a Solicitor** [1992] 2 335, QBD.

Duty—

Conflict of interest—

Duty of confidentiality to client—Former client—Solicitor acting for client against former client—Large City firm instructed to act for client against former client—Firm previously receiving confidential information from former client relevant to subsequent litigation—Firm proposing to erect 'Chinese wall' to prevent leakage of confidential information received from former client—Former client seeking to restrain firm from acting for other client—Whether reasonable man informed of facts including proposed Chinese wall would anticipate danger of firm breaching duty of confidence to former client—Whether firm should be restrained from acting against former client. **Re a firm of solicitors** [1992] 1 353, CA.

Termination of retainer—Criminal proceedings—Co-defendants—Cut-throat defence—Solicitor acting for one co-defendant where co-defendants blaming each other—Retainer terminated—Impropriety of solicitor afterwards acting for other co-defendant. **Saminadhen v Khan (note)** [1992] 1 963, CA.

Negligence—

Duty of care—

Negligent misrepresentation—Damages for breach of duty of care—Defence of contributory negligence. *See* Misrepresentation (Negligent misrepresentation—Damages for breach of duty of care—Contributory negligence).

Negligent misrepresentation—Sale of land—Duty owed to third party dealing with client—Inquiries before contract—Plaintiff acquiring underlease of premises from defendant—Headlease containing redevelopment break clause—Defendant's solicitors stating in answer to inquiries that there were no rights in headlease affecting plaintiff's enjoyment of property—Whether solicitor acting for vendor owing duty of care to purchaser when answering inquiries before contract—Whether defendant's solicitors liable to plaintiff for misrepresentation. **Gran Gelato Ltd v Richcliff (Group) Ltd** [1992] 1 865, Ch D.

Sale of land—

Misrepresentation—

Negligent misrepresentation—Scope of solicitor's duty of care. *See* Negligence—Duty of care—Negligent misrepresentation—Sale of land, *ante*.

STATEMENT OF CLAIM

Striking out—

Private law action—

Public law defence—Rule that issues dependent on existence of public law rights should be determined by judicial review—Family practitioner committee abating doctor's basic practice allowance—Doctor bringing action claiming full allowance and alleging breach of contract by committee—Committee applying to strike out action—Whether doctor required to proceed by judicial review to assert entitlement to full allowance—Whether doctor entitled to establish private law right to full allowance by action—National Health Service (General Medical and Pharmaceutical Services) Regulations 1974, reg 24. **Roy v Kensington and Chelsea and Westminster Family Practitioner Committee** [1992] 1 705, HL.

STATUTORY POWER

Negligence—

Duty to take care. *See* Negligence (Duty to take care—Statutory powers).

STAY OF EXECUTION

Generally. *See* Execution (Stay).

STAY OF PROCEEDINGS

- Arbitration—
Generally. *See* **Arbitration** (Stay of court proceedings).
- Conflict of laws—
Generally. *See* **Conflict of laws** (Stay of proceedings).
- Criminal proceedings. *See* **Criminal law** (Trial—Stay of proceedings).

STRIKING OUT

- Pleading—
Statement of claim. *See* **Statement of claim** (Striking out).

SUMMARY DISMISSAL

- Generally. *See* **Employment** (Dismissal—Summary dismissal).

SUMMARY JUDGMENT

- Set-off—
Right of set-off. *See* **Set-off** (Right of set-off—Summary judgment).

SUMMARY OFFENCE

- Committal for trial at Crown Court—
Magistrates' jurisdiction. *See* **Crown Court** (Committal to Crown Court for trial—Jurisdiction—Summary offence).

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- Listing—
Chancery Division. *See* **Practice** (Chancery Division—Listing—Summons).
- Masters' summonses—
Generally. *See* **Practice** (Summons—Masters' summonses).
- Witness summonses—
Criminal proceedings, generally. *See* **Criminal evidence** (Witness—Witness summonses).

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- Family proceedings—
Care order or supervision order. *See* **Family proceedings** (Orders in family proceedings—Care or supervision order).

SURETY

- Criminal law. *See* **Criminal law** (Bail).

SURVEYOR

- Negligence—
Building society, report for—
Jurisdiction of building societies ombudsman to investigate complaint. *See* **Building society** (Maladministration—Breach of contractual obligations—Negligent valuation report—Complaint to building societies ombudsman).

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- Evidence in civil proceedings. *See* **Document** (Admissibility in evidence—Out-of-court statement—Out-of-court statement made 'orally' admissible only if proved by direct oral evidence by speaker—Statements recorded on tape recordings).

TAX

- Capital transfer tax. *See* **Capital transfer tax**.
- Corporation tax—
Group relief. *See* **Income tax** (Company—Group relief).
- Income tax—
Generally. *See* **Income tax**.
- Unlawful demand for tax—
Repayment of money paid. *See* **Restitution** (Money paid to Crown—Payment of unlawful demand for tax).

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- Costs—
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- Generally. *See* **Landlord and tenant**.
- Secure tenancy—
Public sector housing. *See* **Housing** (Local authority houses—Security of tenure).

TIME

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Arbitration—
Reference to arbitration. *See* **Arbitration** (Reference to arbitration—Extension of time).
- Limitation—
Limitation of action. *See* **Limitation of action**.

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- See* **Shipping** (Time charterparty).

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Limitation of action—

When time begins to run. See **Limitation of action** (When time begins to run—Actions in tort).

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TOWN AND COUNTRY PLANNING

Appeal—

Appeal against enforcement notice. See **Enforcement notice**—Appeal against notice, *post*.

Conservation area—

Planning permission—

Preservation and enhancement of area—Outline planning permission given before site designated part of conservation area—Development not preserving or enhancing area—Whether permission for development should be granted—Town and Country Planning Act 1971, s 277(8). **Bath Society v Secretary of State for the Environment** [1992] 1 28, CA.

Preservation and enhancement of area—Preserving area—Whether proposed development must positively preserve character or appearance of conservation area in question—Whether character or appearance of area would be preserved if development left character or appearance unharmed—Town and Country Planning Act 1971, s 277(8). **South Lakeland DC v Secretary of State for the Environment** [1992] 1 573, HL.

Enforcement notice—

Appeal against notice—

Leave—Procedure—Notice of application to be in writing—Supporting documents—Proposed respondent entitled to submit written response—Time for application—Town and Country Planning Act 1990, s 289(6)—Planning (Listed Buildings and Conservation Areas) Act 1990, s 65(5)—Planning and Compensation Act 1991, s 6(5), Sch 3, para 8(3)—RSC Ord 55. **Practice Note** [1992] 1 448, QBD.

Permission for development—

Material consideration—

Recommendation of local plan inspector—Recommendation that site be designated as open space on local plan—Whether recommendation material consideration when determining application for development on site—Town and Country Planning Act 1971, s 29(1). **Bath Society v Secretary of State for the Environment** [1992] 1 28, CA.

TRACING

Money had and received—

Right to trace funds at common law. See **Money** (Money had and received—Right to trace funds at common law).

TRAFFICKING

Drugs. See **Drugs** (Drug trafficking).

TRIAL

Civil action—

Practice. See **Practice** (Trial).

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Ecclesiastical offence. See **Ecclesiastical law** (Clergyman—Offence—Trial).

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TRIBUNAL

Foreign tribunal—

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Solicitors' Disciplinary Tribunal. See **Solicitor** (Disciplinary proceedings—Disciplinary tribunal).

TRUST AND TRUSTEE

Constructive trust—

Breach of fiduciary duty—

Knowing receipt of trust property—Sale of company assets at undervalue—Directors of vendor company in breach of fiduciary duty in respect of sale of company assets—Whether purchaser company liable as constructive trustee—Whether purchaser company having knowledge of directors' breach of duty—Proper test to be applied. **Cowan de Groot Properties Ltd v Eagle Trust plc** [1992] 4 700, Ch D.

Fraud—

Knowing assistance in fraudulent design—Plaintiff's employee forging payment order in favour of nominee company set up and controlled by defendant accountants—Plaintiff's funds transferred to nominee company's bank account and then to account operated by defendants' firm—Funds later transferred to firm's clients' account—Defendants disposing of money on clients' instructions in disregard of plaintiff's request for its return—Defendants in receipt of legal advice as to possibility of fraud but failing to act—Whether defendants liable to account for funds as constructive trustees—Whether defendants knowingly assisting in fraudulent design. **Agip (Africa) Ltd v Jackson** [1992] 4 451, CA.

Knowing receipt—

Commercial transaction—Constructive notice—Defendant agreeing to underwrite costs of plaintiff's take-over offer and subsequently arranging to sub-underwrite its liability—Plaintiff alleging that its funds were misapplied to satisfy sub-underwriting costs—Whether third party liable as constructive trustee for trust property already passed on—Test to be applied in determining liability—Whether constructive notice sufficient for liability—Whether principle of constructive notice applicable to commercial transactions. **Eagle Trust plc v SBC Securities Ltd** [1992] 4 488, Ch D.

TRUST AND TRUSTEE (cont)

Constructive trust (cont)—

Participation in dishonest design—

Knowingly assisting in fraudulent design on part of trustee—Knowingly receiving trust property—Knowingly assisting in breach of trust—Knowledge—Bank—Bank having knowledge that company was transferring substantial sums off shore—Funds transferred fraudulently—Whether bank having cause to suspect improprieties—Whether bank should have been put on inquiry as to whether there were improprieties in transfer. **Polly Peck International plc v Nadir (No 2)** [1992] 4 769, CA.

Knowingly assisting in fraudulent design on part of trustee—Knowingly receiving trust property—Knowingly assisting in breach of trust—Knowledge—Stranger—Knowledge required of stranger to trust to make him accountable as constructive trustee—Whether carelessness or negligence in failing to make inquiries amounting to knowledge—Whether want of probity necessary to make stranger accountable as constructive trustee for assisting in fraudulent design on part of trustee. **Lipkin Gorman (a firm) v Karpnale Ltd** (1986) [1992] 4 331, QBD.

Knowingly assisting in fraudulent design on part of trustee—Knowledge—Stranger—Bank—Knowledge required of stranger to trust to make him accountable as constructive trustee—Bank's duty of care to beneficiary—When bank will be accountable as constructive trustee for assisting in fraudulent design on part of trustee. **Baden v Société Générale pour Favoriser le Développement du Commerce et de l'Industrie en France SA** (1982) [1992] 4 161, Ch D.

Knowingly receiving trust property—Knowledge—Trustees of settlement releasing settled property to beneficiary absolutely in breach of trust—Beneficiary's solicitor aware of terms of settlement—Whether beneficiary having knowledge of breach of trust—Whether beneficiary acting with want of probity—Whether knowledge of beneficiary's solicitor to be imputed to beneficiary—Whether beneficiary a constructive trustee of property. **Re Montagu's Settlement Trusts, Duke of Manchester v National Westminster Bank Ltd** (1985) [1992] 4 308, Ch D.

Unmarried couple—

House acquired by joint efforts for joint benefit—Claim for beneficial interest in house—Defence of illegality—House purchased jointly but in plaintiff's sole name to facilitate defendant's fraudulent claims for social security benefit—Plaintiff moving out leaving defendant in occupation—Plaintiff claiming possession and asserting ownership of house—Defendant counterclaiming for beneficial interest—Plaintiff raising defence of illegality to counterclaim—Whether defendant entitled to beneficial interest notwithstanding fraudulent purpose of purchase in plaintiff's sole name. **Tinsley v Milligan** [1992] 2 391, CA.

Principles applicable in determining beneficial interests in property—Man acquiring house in sole name—Mistress not directly contributing to purchase price or mortgage instalments—Mistress indirectly contributing by contributions to man's business interests, housekeeping and bringing up children—Whether common intention that mistress should have beneficial interest—Whether mistress acting to her detriment on basis of such common intention—Whether mistress entitled to beneficial interest in property and other assets—Observations on conduct of proceedings between unmarried couples relating to disputed proprietary rights and ownership of chattels. **Hammond v Mitchell** [1992] 2 109, Fam D.

UNDERTAKING

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Interlocutory injunction—

Undertaking as to damages. *See Injunction* (Interlocutory—Undertaking as to damages).

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Corrupt practice. *See Elections* (Corrupt practice—Undue influence).

Equitable relief. *See Equity* (Undue influence).

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UNFAIR DISMISSAL

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Reasons justifying dismissal—

Gross misconduct—Unauthorised entry into employer's computer—Whether gross misconduct justifying summary dismissal. **Denco Ltd v Joinson** [1992] 1 463, EAT.

Discrimination against a woman. *See Employment* (Discrimination against a woman—Unfair dismissal and redundancy payments).

UNIVERSITY

Academic staff—

Dismissal—

Jurisdiction of visitor—Contract of service providing that dismissal only to be in accordance with university's statutes, ordinances and regulations for good cause—Complainant alleging wrongful dismissal because no good cause shown for dismissal and procedural requirements not followed—Complainant having acquiesced in departure from correct procedure—Whether good cause shown for dismissal—Whether complainant having waived right to insist on correct procedure—Whether procedural irregularities vitiating decision to remove complainant from academic staff. **Thomas v University of Bradford (No 2)** [1992] 1 964, Visitor.

UNJUST ENRICHMENT

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UNMARRIED COUPLE

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Financial relief. *See Minor* (Child of unmarried parents—Financial relief).

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VALUATION

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VALUER

Valuation—

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Valuation made as expert rather than arbitrator—Agreement for sale of company—Dispute over calculation of company turnover—Parties referring dispute to independent accountants for determination in accordance with contract—Contract providing that experts' determination to be conclusive and binding for all purposes—Experts complying fully with terms of letter of instruction—Plaintiffs seeking to set aside experts' determination on ground of mistake—Whether determination open to challenge on ground of mistake—Whether plaintiffs bound by determination. **Jones v Sherwood Computer Services plc** [1992] 2 170, CA.

VIDEO RECORDING

Evidence—

Criminal proceedings—

Generally. *See* **Criminal evidence** (Video recording).

Testimony of child. *See* **Criminal evidence** (Child—Video recording of testimony).

VISITING FORCES

Negligence—

Personal injuries claim by member of visiting force—

United Kingdom and United States of America parties to treaty agreement regulating status of visiting US forces—Agreement imposing obligation on United Kingdom to compensate for injuries caused to third parties—Third parties—Member of US Air Force sustaining injuries through treatment at US military hospital while stationed in England—Serviceman claiming damages for personal injuries and loss against United States government and United Kingdom Ministry of Defence—Whether agreement giving serviceman right of action against United Kingdom government—Whether serviceman a third party for purposes of agreement—Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty, art VIII, para 5. **Littrell v USA** [1992] 3 218, QBD.

VOLUNTARY AIDED SCHOOL

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VOLUNTARY WINDING UP

Company. *See* **Company** (Voluntary winding up).

WARD OF COURT

Care and control—

Protection of ward—

Child sex abuse—Application in wardship proceedings for care order—Guidelines on investigative interviews, drafting of local authority affidavits and disclosure of documents. **Re A (minors) (wardship: child abuse: guidelines)** [1992] 1 153, Fam D.

Child abuse—

Protection of ward—

Care order. *See* **Care and control**—Protection of ward—Child sex abuse, *ante*.

Custody—

Care and control and access—

Practice. *See* **Minor** (Practice—Wardship and guardianship proceedings—Custody—Care and control and access).

Jurisdiction—

Medical treatment—

Grossly handicapped baby—Baby severely microcephalic and suffering from severe cerebral palsy—Baby having short expectation of life—Nature of treatment to be administered—Medical opinion against giving artificial ventilation to baby in event of life-threatening event—Whether court exercising inherent jurisdiction can order doctor to treat minor in manner contrary to doctor's clinical judgment. **Re J (a minor) (wardship: medical treatment)** [1992] 4 614, CA.

Protection of ward—

Freedom of publication—Matters to be considered—Balance between freedom of press and protection of ward—Local authority placing ward with two homosexual men as foster parents—Newspaper wishing to publish article about placement—Whether placement raising matter of great public interest and concern—Whether newspaper should be free to publish in manner which would engage readers' interest—Whether injunction should be granted restraining publication—Convention for the Protection of Human Rights and Fundamental Freedoms 1950, art 10. **Re W (a minor) (wardship: freedom of publication)** [1992] 1 794, CA.

Medical treatment—

Jurisdiction of court. *See* **Jurisdiction**—Medical treatment, *ante*.

Protection of ward—

Confidential papers in wardship proceedings—

Release of confidential papers for use in collateral civil proceedings—Release of confidential papers for use in libel action—Matters to be considered—Effect on children and public interest in due administration of wardship jurisdiction to be weighed against public interest in due administration of justice in collateral civil proceedings—Whether court will permit inspection of wardship court's files for purpose of defending libel action if inspection would adversely affect confidential nature of wardship jurisdiction—Administration of Justice Act 1960, s 12(1). **Re X and ors (minors) (wardship: disclosure of documents)** [1992] 2 595, Fam D.

Publication of information about ward—

Jurisdiction to restrain—

Generally. *See* **Jurisdiction**—Protection of ward—Freedom of publication, *ante*.

Removal of ward from jurisdiction—

Removal without leave of court—

Contempt of court—Sequestration. *See* **Contempt of court** (Sequestration—Removal of ward from jurisdiction without leave).

WARRANT

Irish warrant—
Indorsement. *See* **Magistrates** (Indorsement of Irish warrant).

WASTED COSTS

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WATER AND WATERCOURSES

Navigation—

Public right of navigation—

Land covered by water—River—Right of navigation over river—Whether right of navigation a right of way over 'land covered with water'—Rights of Way Act 1932, s 1(1)(8). **A-G (ex rel Yorkshire Derwent Trust Ltd) v Brotherton** [1992] 1 230, HL.

WEAPON

Firearms. *See* **Firearms**.

WIDOWER

Family provision. *See* **Family provision** (Widower).

WILL

Execution—

Signature—

Holograph will—Will commencing with statement 'My Will by Percy Winterbone'—Whether valid signature—Wills Act 1837, s 9(a). **Wood v Smith** [1992] 3 556, CA.

Time of testator's signature—

Testator signing will before setting out dispositive provisions—Whether will validly executed—Wills Act 1837, s 9(b). **Wood v Smith** [1992] 3 556, CA.

Rectification—

Clerical error—

Inadvertence—Testatrix instructing solicitor to alter will—Solicitor failing to include clause from previous will exercising power of appointment in favour of husband—Husband seeking rectification of wife's will—Whether solicitor's failure constituting a 'clerical error'—Whether inadvertence constituting a ground for rectification—Whether rectification of will should be ordered—Administration of Justice Act 1982, s 20(1)(a). **Wordingham v Royal Exchange Trust Co Ltd** [1992] 3 204, Ch D.

Revocation—

Conditional revocation—

Revocation clause in later will—Distributive reading of revocation clause—Gift in later will failing because will witnessed by devisee's husband—Gift to devisee identical in earlier and later wills but other gifts varied—Whether revocation clause in later will could be read distributively—Whether testator intending to revoke gift to devisee—Whether testator intended later will to be confirmatory of gift to devisee but revocatory in respect of other bequests—Wills Act 1837, s 15. **Re Finnmore (decd)** [1992] 1 800, Ch D.

WINDING UP

Company—

Compulsory winding up. *See* **Company** (Compulsory winding up).

Voluntary winding up. *See* **Company** (Voluntary winding up).

WITHOUT PREJUDICE

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Admissibility in evidence. *See* **Evidence** (Without prejudice correspondence).

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Criminal cases generally. *See* **Criminal evidence** (Witness—Witness summons).

WOUNDING

Generally. *See* **Criminal law** (Wounding).

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Action time-barred—

Validity of writ for service—Writ served on foreign defendant's London representative outside four-month period—Whether writ valid for service for four or six months—RSC Ord 6, r 8. **Payabi v Armstel Shipping Corp, The Jay Bola** [1992] 3 329, QBD.

Service—

Generally. *See* **Practice** (Service).

Partnership. *See* Service on partnership, *post*.

Service on partnership—

Service of writ on partner—

Service through letter box—Whether service may be effected by insertion of writ addressed to partner through letter box at firm's address—Whether good service only constituted by insertion through letter box at place where partner lives or is last known to have lived—RSC Ord 10, r 1(2)(a)(b), Ord 81, r 3(1)(a). **Marsden v Kingswell Watts (a firm)** [1992] 2 239, CA.

YOUNG OFFENDER

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Generally. *See* **Sentence** (Young offender).



